

## REMARKS

This Reply is in response to the Office Action mailed on July 19, 2005 in which Claims 1-51 were rejected. With this response, Claims 2-5, 18-20, 26-27, 32-34, 37 and 41 are cancelled; Claims 1, 17, 23, 24, 25, 36, 45 and 47 are amended; and Claims 52-63 are added. Claims 1, 6-17, 21-25, 28-31, 35-36, 38-40 and 42-63 are presented for reconsideration and allowance.

### I. Examiner Interview Summary.

On October 5, 2005, a telephonic interview was held between Examiner Kovacs and Applicant's attorney, Todd A. Rathe. The rejections of Claims 1, 17, 23, 24, 25, 36, 45, 46 and 47 were discussed. Although no agreement was reached, Applicants wish to thank Examiner Kovacs for the opportunity to discuss the rejections.

### II. Rejection of Claims 1-51 Under 35 U.S.C. § 103 Based Upon Wollersheim and/or Rush and/or Stalpes in Combination with Hildebrandt and/or Moseley.

Paragraph 2 of the Office Action rejected Claims 1-51 under 35 U.S.C. § 103 as being unpatentable over Wollersheim, U.S. Patent No. 5,261,214, and/or Rush et al., U.S. Patent Publication No. 2003/084655 and/or Stalpes et al., U.S. Patent No. 6,082,083, in view of Hildebrandt, U.S. Patent No. 5,511,445 and/or Moseley, U.S. Patent No. 6,065,764. Claims 1-51, as amended, overcome the rejection.

#### A. Rejection of Claims 1, 17, 23, 24 and 45 Based in Part on Hildebrandt..

Claims 1, 17, 23, 24 and 45, as amended, each recite either a flexible material (Claim 1), a compressible material (Claim 23), a compressible portion (Claim 24) or a compressible outer surface (Claim 45) that forms a channel configured to receive the other of the handle and the control prior to movement of the control to the first position (i.e., the position in which the handle and the control (i.e. kill bar) are proximate to one another such that movement of the working member is permitted).

Neither Wollersheim, Rush, Stalpes, Hildebrandt nor Moseley, alone or in combination, disclose or suggest a flexible or compressible material or portion or outer surface that receives the other of the handle and the control prior to movement of the control to the first position. As acknowledged in the Office Action, neither Wollersheim, Rush nor Stalpes disclose the recited flexible or compressible material or surface. During the Examiner interview held on October 5, 2005, the Examiner noted the illustrated spacing between the left end 19 and the right end 21 of core sheet 14 in Figure 1 of Hildebrandt. However, as pointed out by Applicants during the interview, the size of this space is obviously exaggerated in the drawing to illustrate the edges of core sheet 14. In fact, column 4, lines 21-24, of Hildebrandt specifically states:

In preferred practice of the invention, the hand grip has a relatively smooth continuous surface around the entire circumference of the handle so that there is no noticeable bumps or depressions in the hand grip surface.

Thus, it is clear that any actual gaps would be de minimus at best.

Moreover, even assuming, arguendo, that if such a gap were to exist, the gap would clearly not be configured to receive either the handle or the control. Hildebrandt specifically states that surface sheet 16 has a thickness of only about 0.02 inches. Hildebrandt also specifically states that core sheet 14 only has a thickness of about one eighth of an inch. Thus, at most, the illustrated gap noted during the Examiner interview has a width of only about one eighth of an inch and a depth of only about one eighth of an inch. One of ordinary skill in the art would clearly not consider a channel having a depth of one eighth of an inch and a width of one eighth of an inch as being configured to receive a handle of a powered appliance or a control (i.e., kill bar) of a powered appliance.

In addition, no teaching or suggestion exists for modifying the size of the gap since neither Hildebrandt nor any other references of record make any suggestion for positioning a handle or a control within the gap. As noted above, Hildebrandt would specifically teach away from such a modification in that Hildebrandt teaches that the hand grip should have a relatively smooth continuous surface around the entire circumference of the handle so that there are no noticeable bumps or depressions in the hand grip surface. Hildebrandt also states

that surface sheet 16 should be relatively thin so as to be relatively flexible. Any assertion that it would be obvious to modify the size of the gap of Hildebrandt would appear to be based upon impermissible hindsight reasoning using Applicants' own disclosure as a blueprint.

Even assuming, arguendo, that the illustrated gap in Hildebrandt were actually sized to receive the other of the handle and the control, neither Hildebrandt nor the prior art of record provide any teaching or suggestion that the gap should be appropriately positioned with respect to the other of the handle and the control so as to receive the other of the handle and the control. To receive the other of the handle and the control, the gap must be appropriately positioned so as to receive the other of the handle and the control when the other of the handle and the control are moved to the first position. Hildebrandt makes no mention of where the gap should be positioned about handle 12 with respect to a control or kill bar. The Office Action has failed to recite any source or suggestion for the rejections's apparent "fortuitous" positioning of hand grip 10 on handle 12 of Hildebrandt so as to receive the other of the handle and the control. This is a clear example of impermissible hindsight reasoning using Applicants' own disclosure as a blueprint. Thus, Claims 1-51, as amended, overcome the rejection based upon Wollersheim, Rush, Stalpes and Hildebrandt.

B. Claims 1, 17, 23, 24 and 45 Based in Part Upon Moseley.

Claims 1, 17, 23, 24 and 45, as amended, each recite either a flexible material (Claim 1), a compressible material (Claim 23), a compressible portion (Claim 24) or a compressible outer surface (Claim 45) that forms a channel configured to receive the other of the handle and the control prior to movement of the control to the first position (i.e., the position in which the handle to the control are proximate to one another such that movement of the working member is permitted).

Neither Wollersheim, Rush, Stalpes nor Moseley, alone or in combination, disclose or suggest a flexible or compressible material or portion or outer surface that receives the other of the handle and the control prior to movement of the control to the first position. Although Moseley appears to disclose a flexible cover 10, nowhere does Moseley disclose or suggest a

channel configured to receive the other of the handle or control. In contrast, Moseley, at most, discloses a slit 18 in Figure 2 which is clearly insufficiently sized to receive a handle or a control (i.e., kill bar) of a powered appliance. In fact, Moseley specifically states that “The diameter of cavity 16 is substantially the same as that of handle 15, ensuring its secure frictional fit thereon.” (See col. 5, lines 21-23). Thus, one of ordinary skill in the art would clearly not draw from the teachings of Moseley that slit 18 would be sufficiently sized to receive either the handle or the control (i.e., kill bar).

Moreover, nowhere does Moseley disclose or suggest that slit 18 should be appropriately angularly positioned about handle 15 such that slit 18 is aligned so as to receive the other of the handle or the control. Any such assertion that one of ordinary skill in the art would somehow be lead to appropriately position cover 10 about handle 15 at the exact correct angle so as to receive a handle or a kill bar (i.e., control) when the two are moved together would appear to be based purely upon impermissible hindsight reasoning using Applicants’ own disclosure as a blueprint. Accordingly, Claims 1, 17, 23, 24 and 45 , as amended, overcome the rejection based upon Wollersheim, Rush and Stalpes in view of Moseley.

C. Claims 25 and 36.

Claims 25 and 36 recite methods for equipping and operating a powered appliance. Claims 25 and 36 each recite moving a control to a first position adjacent a tube or flexible member such that the control is within an opening in the tube (Claim 25) or such that the other of the handle or the control is within a gap provided by the flexible member.

Neither Wollersheim, Rush, Stalpes, Hildebrandt nor Moseley, alone or in combination, disclose or suggest a method in which a tube having a compressible outer surface or a flexible member extend about one of a handle and a control and form an opening or a gap and wherein the other of the handle and the control is positioned within the opening or the gap. As acknowledged in the Office Action, neither Wollersheim, Rush nor Stalpes disclose the recited flexible or compressible material. As a result, the Office Action attempts to additionally rely upon either Hildebrandt nor Moseley. As noted above, neither

Hildebrandt nor Moseley disclose an opening or a gap that is sufficiently sized so as to receive the other of the handle and the control. Moreover, even assuming, arguendo, that such gaps were sufficiently sized to receive either the control or the handle, neither Hildebrandt nor Moseley disclose or even suggest positioning of their hand grips on the handle at the exact right location such that the alleged gaps would be appropriately aligned so as to receive the handle or the control. Neither Hildebrandt nor Moseley specifically disclose or suggest the positioning of the handle or the control in such a gap. Thus, Claims 25 and 36, as amended, overcome the rejections based upon Wollersheim, Rush and Stalpes, in view of Hildebrandt and/or Moseley.

D. Claims 46 and 47.

Claims 46 and 47 each recite an accessory for use as a powered appliance. Claims 46 and 47 further recite that the accessory has a body having first and second opposite ends that are sufficiently spaced from one another so as to form a gap when the body is coupled to one of the handle and the control, wherein the body and the gap are sized so that at least half of the other of the handle and the control is received within the gap when the control is in the first position. In other words, Claims 46 and 47 specifically recite that at least half of the other of the handle and the control is received within the gap.

As noted above, neither Hildebrandt nor Moseley disclose a gap that is sufficiently sized to receive at least half of the other of the control or the handle when the control and the handle are in the first position proximate to one another to facilitate movement of the working member. One of ordinary skill in the art would clearly not consider the maximum one eighth of an inch by one eighth of inch illustrated space in Hildebrandt as being configured to receive at least half of a handle or a control. Likewise, one of ordinary skill in the art would clearly not consider the slit 18 of Moseley as configured to receive at least half of a handle or a control. Accordingly, Claims 46 and 47, as amended, overcome the rejection based upon Wollersheim, Rush, Stalpes in view of Hildebrandt and/or Moseley.

III. Added Claims.

With this response, Claims 52-63 are added. Claims 52-63 recite additional features which are further patentably distinguish such claims over the prior art of record.

Claims 52, 54, 56, 58, 60 and 62 depend from Claims 1, 17, 23, 24, 25 and 36, respectively, and recite a channel, gap or opening that passes completely through the flexible material, compressible material, compressible portion or flexible portion.

Claims 53, 55, 57, 59, 61 and 63 depend from Claims 1, 17, 23, 24, 25 and 36 and further recite that the flexible material, flexible portion, compressible material or compressible portion has a thickness greater than or equal to the thickness of the other of the control and the handle that is received within the opening, channel or gap. The prior art of record fails to disclose or suggest the claimed features of any of Claims 52-63. Accordingly, Claims 52-63 are presented for consideration and allowance.

IV. Conclusion.

After amending the claims as set forth above, Claims 1, 6-17, 21-25, 28-31, 35-36, 38-40 and 42-63 are now pending in this application.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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